

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

THERON J. MAXTON,

Plaintiff,

v.

LORETTA LYNCH, et al.,

Defendants.

CIVIL ACTION NO. 1:15-CV-01402

(CALDWELL, J.)  
(MEHALCHICK, M.J.)

**REPORT AND RECOMMENDATION**

On July 20, 2015, Plaintiff Theron J. Maxton, proceeding *pro se*, filed a *Bivens*-styled complaint pursuant to 28 U.S.C. § 1331 (Doc. 1), together with a motion for leave to proceed *in forma pauperis*. (Doc. 2). In an Order dated August 17, 2015, the Court denied Plaintiff's motion to proceed *in forma pauperis* on the basis that Plaintiff was precluded from seeking *in forma pauperis* status due to his accrual of three strikes as set forth in 28 U.S.C. § 1915(g). (Doc. 7). On October 2, 2015, the Court issued an administrative order directing the Plaintiff to submit the \$350 filing fee within thirty (30) days of entry of the Order if he wished to proceed with his civil action. (Doc. 12). To date, Plaintiff has not paid the applicable filing fee. Accordingly, on this 3<sup>rd</sup> day of December, 2015, upon Plaintiff's failure to pay the applicable filing fee within thirty (30) days as directed by this Court's October 2, 2015 Order (Doc. 12), **IT IS HEREBY** recommended that:

1. The District Court enter an Order **DISMISSING** the case without prejudice;
2. The Clerk of Court be directed to **CLOSE** the case.

**BY THE COURT:**

**Dated: December 3, 2015**

*s/ Karoline Mehalchick*

**KAROLINE MEHALCHICK**  
**United States Magistrate Judge**

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**NOTICE**

**NOTICE IS HEREBY GIVEN** that the undersigned has entered the foregoing **Report and Recommendation** dated **December 3, 2015**.

Any party may obtain a review of the Report and Recommendation pursuant to Rule 72.3, which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in [28 U.S.C. § 636\(b\)\(1\)\(B\)](#) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within fourteen (14) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

**Dated: December 3, 2015**

*s/ Karoline Mehalchick*  
**KAROLINE MEHALCHICK**  
**United States Magistrate Judge**